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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/859,661	05/17/2001	Stuart A. Fraser		3933
1473	7590	12/15/2005		
FISH & NEAVE IP GROUP ROPES & GRAY LLP 1251 AVENUE OF THE AMERICAS FL C3 NEW YORK, NY 10020-1105			EXAMINER	MYHRE, JAMES W
			ART UNIT	PAPER NUMBER
				3622

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

1. This is in response to the September 16, 2005 order by the Board of Patent Appeals and Interferences (BPAI), returning the appealed application to the Examiner for formal matters. The following corrective actions or responses have been taken.

- a. The amendment of September 9, 2002 has been completely entered.
- b. The information disclosure statement (IDS) filed July 30, 2002, fails to comply with 37 CFR 1.98(a)(1), which requires the following: (1) a list of all patents, publications, applications, or other information submitted for consideration by the Office; (2) U.S. patents and U.S. patent application publications listed in a section separately from citations of other documents; (3) the application number of the application in which the information disclosure statement is being submitted on each page of the list; (4) a column that provides a blank space next to each document to be considered, for the examiner's initials; and (5) a heading that clearly indicates that the list is an information disclosure statement. The information disclosure statement has been placed in the application file, but the information referred to therein has not been considered.

The Examiner notes that no Form 1449 was included in this submission. However, the references noted on the IDS were also listed on the 1449 accompanying the Information Disclosure Statement (Papers Number 4 and 5) filed on June 18, 2002, which was considered and initialed by the Examiner and returned to the Applicant with Paper Number 7.

c. The Information Disclosure Statements filed on June 27, 2003 and October 6, 2003 have been considered and initialed copies of the 1449s are attached herein.

d. The Declaration of James Bollinger, filed on February 22, 2002, did not contain any statement or information pertaining to the patentability of the claims – only a statement by Mr. Bollinger that he drafted the specification and claims of the parent application and assisted in the drafting of the current application. The Examiner did not consider this to be materially pertinent to the examination of the present application.

e. The Examiner has completed a Supplemental Examiner's Answer with the correct headings for the "Summary of Claimed Subject Matter", "Claims Appendix", "Evidence Relied Upon", and "Related Proceedings Appendix" sections. No changes have been made to the "Grounds of Rejection" or "Responses to Argument" sections.

Conclusion

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exr. James W. Myhre whose telephone number is (571) 272-6722. The examiner can normally be reached Monday through Thursday from 5:30 a.m. to 3:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber, can be reached on (571) 272-6724. The fax phone number for Formal or Official faxes to Technology Center 3600 is (571) 273-8300. Draft or Informal faxes, which will not be entered in the application, may be submitted directly to the examiner at (571) 273-6722.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (571) 272-3600.



JWM

November 2, 2005



James W. Myhre

Primary Examiner

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